

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6921 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
BHIKHAJI PUNAJI ZALA

Versus

DISTRICT SUPPLIERS OFFICER & Ors

-----  
Appearance:

MS MEGHA JANI for Petitioner

MS BANNA S DUTTA for Respondent No.4

MS HARSHA DEWANI, A.G.P. for respondents no.1 to 3

-----  
CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 27/01/97

ORAL JUDGEMENT

By means of filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue writ of certiorari or writ of mandamus or any other appropriate writ, order or direction to quash and set aside order dated August 7/12,1996 passed by respondent no.3 and order dated September 3,1996 passed by

respondent no.2. The petitioner has further prayed to command respondents no.1 to 3 not to cancel authorisation letter no.249 of 1996 issued to the petitioner for running a fair price shop.

The petitioner was granted authorisation to run a fair price shop. The authorisation is produced by the petitioner at Annexure-A to the petition. Respondent no.4 had also applied for obtaining authorisation to run a fair price shop. The application submitted by respondent no.4 was also granted by the competent authority. However, feeling aggrieved by the authorisation granted to the petitioner, respondent no.4 had preferred an appeal before the appellate authority. The appellate authority rejected the appeal vide order dated March 12,1995. The respondent no.4, therefore, preferred revision application before State Government. The State Government has allowed the same by order dated August 7/12,1996. Pursuant to the order passed by the State Government, District Collector, Ahmedabad passed an order on September 3,1996 cancelling authorisation of the petitioner, giving rise to the present petition.

The learned Counsel for the petitioner submitted that State Government had not heard the petitioner before passing the impugned order and, therefore, the petition deserves to be allowed. The fact that the petitioner was not heard by the State Government before passing the impugned order, is not in dispute. As the authorisation granted to the petitioner was subject matter of challenge in the revision application, the petitioner ought to have been heard by the State Government. Under the circumstances, the order passed by the State Government in revision application is liable to be set aside and quashed on the ground of breach of principles of natural justice. The consequential order passed by the Collector is also liable to be quashed and set aside.

For the foregoing reasons, the petition succeeds. The order dated August 7/12,1996 passed by the State Government allowing the revision application filed by respondent no.4 is hereby set aside and quashed. Similarly, the order dated September 3,1996 passed by the District Collector, Ahmedabad is also set aside and quashed. The matter is remanded to respondent no.3 for fresh consideration. It is directed that respondent no.3 shall issue notices to all the parties concerned and thereafter render decision according to law and on merits after hearing the parties. Rule is made absolute accordingly, with no order as to costs.

=====

